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**FILED** *JH*  
11/10/2021  
**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

STATE BAR COURT  
HEARING DEPARTMENT - LOS ANGELES

In the Matter of: ) Case No. SBC-21-O-30192-YDR  
)  
) PETITION FOR DISBARMENT AFTER  
THOMAS VINCENT GIRARDI, ) DEFAULT FOR FAILURE TO FILE  
State Bar No. 36603, ) TIMELY RESPONSE; SUPPORTING  
) DECLARATION OF ELI D.  
) MORGENSTERN  
An Attorney of the State Bar. )  
) [Rules Proc. of State Bar, rule 5.85]

**TO THE HONORABLE YVETTE D. ROLAND, SUPERVISING HEARING  
JUDGE OF THE STATE BAR COURT:**

The Office of Chief Trial Counsel of the State Bar of California (“State Bar”), by and through Senior Trial Counsel Eli D. Morgenstern, hereby petitions the State Bar Court for an order recommending respondent Thomas Vincent Girardi ’s (“respondent”) disbarment after default pursuant to rule 5.85 of the Rules of Procedure of the State Bar of California<sup>1</sup> based upon respondent’s failure to file a timely response to the Notice of Disciplinary Charges and failure to have the default set aside or vacated within the time period prescribed.

<sup>1</sup> Unless otherwise indicated, all references to “rules” refers to the Rules of Procedure of the State Bar of California.

1 I. PROCEDURAL HISTORY

2 **A. Proper Service Of The Notice Of Disciplinary Charges On Respondent And**  
3 **Advisement Of The Effects Of Default.**

4 On March 30, 2021, the State Bar filed and served the Notice of Disciplinary Charges  
5 (“NDC”) on respondent. (See Notice of Disciplinary Charges, filed on March 30, 2021, in the  
6 court file for this matter.) The NDC sets forth the required language in capital letters required by  
7 Rule 5.41(B)(5), advising respondent that failure to file a written answer would subject the  
8 attorney to entry of default, inactive enrollment, and specifically, that failure to timely move to  
9 set aside or vacate a default would result in an order recommending disbarment without further  
10 hearing or proceeding. (*Id.*) The NDC was mailed to respondent’s official licensee records  
11 address via certified mail, return receipt requested, as required by rule 5.25 for service of an  
12 initial pleading. A courtesy copy of the NDC was also mailed to respondent’s official licensee  
13 records address by first class mail. (See Declaration of Service by Certified Mail, Return  
14 Receipt Requested in the official court file in this matter. See also Declaration of Eli D.  
15 Morgenstern, hereinafter, “Morgenstern Declaration,” ¶4, which is attached hereto.) On April 5,  
16 2021, the return receipt was received to the State Bar. But, the signature on the return receipt  
17 was unintelligible. (Morgenstern Declaration, ¶4.) The copy of the NDC that was mailed to  
18 respondent via first class mail was not returned as undeliverable or for any other reason.  
19 (Morgenstern Declaration, ¶4.)

20 On March 30, 2021, a courtesy copy of the NDC was also served via first class mail and  
21 certified mail, return receipt requested, addressed to Nicholas Van Brunt, counsel for Robert  
22 Girardi, who, at the time, was respondent’s temporary conservator, at Mr. Van Brunt’s official  
23 licensee records address, Sheppard Mullin Richter & Hampton LLP, 333 S Hope Street, Ste  
24 4300, Los Angeles, CA 90071. See Declaration of Service by Certified Mail, Return Receipt  
25 Requested in the official court file in this matter. See also Morgenstern Declaration, ¶5.) On  
26 April 5, 2021, the return receipt was received by the State Bar. But, the signature on the receipt  
27 was unintelligible. The copy of the NDC that was mailed to Mr. Van Brunt via First-Class mail  
28

1 was not returned as undeliverable or for any other reason. (Morgenstern Declaration, ¶5.)

2 **B. The Court Entered Respondent's Default For Failure To File A Timely**  
3 **Response.**

4 Respondent was required to file an answer to the Notice within 20 days after service.  
5 (Rules Proc. of State Bar, rule 5.43.) Respondent failed to do so. (Morgenstern Declaration, ¶6.)  
6 On April 27, 2021, the State Bar filed and served a motion for entry of default by certified mail,  
7 return receipt requested, in compliance with rule 5.25 for service of an initial pleading. (See  
8 Notice of Motion And Motion For Entry of Default; Request For Judicial Notice; Memorandum  
9 Of Points And Authorities; Declaration Of Kristina B. Ramos and Exhibits Thereto, filed on  
10 October 14, 2020, in the court file for this matter.) A courtesy copy of the motion for entry of  
11 default was also served via first class mail and certified mail, return receipt requested, addressed  
12 to Mr. Van Brunt at Mr. Van Brunt's official licensee records address. (See Declaration of  
13 Service by Certified Mail, Return Receipt Requested, which is attached to the Notice of Motion  
14 And Motion For Entry of Default; Request For Judicial Notice; Memorandum Of Points And  
15 Authorities; Declaration Of Kristina B. Ramos and Exhibits Thereto, filed on October 14, 2020,  
16 in the court file for this matter.)

17 As required by rule 5.80(A), the State Bar's motion for entry of default included the  
18 filing date of the NDC and date of service of the NDC, a statement that the member did not  
19 timely file a response under rule 5.43, and the advisement language required by rule 5.80(A)(3)  
20 in prominent type advising the member of the consequences of failing to reply to the motion for  
21 entry of default within 10 days of service. Specifically, the motion for entry of default contained  
22 an express statement that entry of default would result in having the facts in the NDC deemed  
23 admitted, and failure to timely move to set aside the default will result in an order by the Court  
24 recommending disbarment without further hearing or proceeding.

25 The motion for entry of default was accompanied by a declaration of reasonable diligence  
26 explaining the efforts made by the State Bar to provide notice to respondent, an additional  
27 requirement of rule 5.80(B). (See Declaration of Kristina B. Ramos, ¶¶5-16, which is attached to  
28

1 the Notice of Motion And Motion For Entry of Default; Request For Judicial Notice;  
2 Memorandum Of Points And Authorities, filed on April 27, 2021, in the court file for this  
3 matter.)

4 On April 30, 2021, Mr. Van Brunt sent the Court, Senior Trial Counsel Kristina B.  
5 Ramos, and the undersigned a pdf copy of a letter via email.

6 The letter stated as follows:

7 I [Van Brunt] am counsel for Robert Girardi, temporary conservator  
8 of the person and estate of Thomas Girardi, in the pending  
9 conservatorship proceeding. I am in receipt of both the Notice of  
10 Assignment and Notice of Initial Status Conference dated April 12,  
11 2021, as well as the Notice of Motion and Motion for Entry of Default  
12 dated April 27, 2021. Please note that I am not counsel for Thomas  
13 Girardi. While I appreciate receiving these notices, as I have  
14 indicated in previous correspondence to Trial Counsel, my client  
15 understands that his brother will never practice law again and  
16 accordingly does not intend to participate in the State Bar proceeding.  
17 (See email from Dolores Gameros, dated April 30, 2021, and Mr. Van Brunt's  
18 April 30, 2021 letter which is attached to it, in the court file for this matter. See  
19 also Morgenstern Declaration, ¶7.)

20 On May 3, 2021, the State Bar received the return receipt that was attached to the  
21 envelope containing the motion for entry of default that was mailed to Mr. Van Brunt. The  
22 signature on the receipt was unintelligible. (Morgenstern Declaration, ¶8.) The motion for entry  
23 of default that was mailed to Mr. Van Brunt via first class mail was never returned to the State  
24 Bar as undeliverable or for any other reason. (Morgenstern Declaration, ¶8.)

25 On June 1, 2021, the State Bar received the return receipt that was attached to the  
26 envelope containing the motion for entry of default that was mailed to respondent. The signature  
27 on the receipt was unintelligible. (Morgenstern Declaration, ¶9.) The motion for entry of default  
28 that was mailed to respondent via first class mail was never returned to the State Bar as  
undeliverable or for any other reason. (Morgenstern Declaration, ¶9.)

Respondent did not file a written response to the motion for entry of default within 10  
days of service of the motion. (Morgenstern Declaration, ¶10.)

On August 6, 2021, the Court issued an order entering respondent's default. (See Order  
Entering Default And Order Enrolling Inactive, filed on August 6, 2021, in the court file for this

1 matter.) This order included the language regarding the effects of default in prominent type  
2 required by rule 5.80(D). The Court served the order on respondent by mail in compliance with  
3 rule 5.25. (See Certificate Of Service attached to Order Entering Default And Order Enrolling  
4 Inactive, filed on August 6, 2021, in the court file for this matter.) The order entering default  
5 advised respondent of the effects of entry of default, specifically, deeming the facts alleged in the  
6 notice of disciplinary charges admitted, prohibiting participation unless the default is set aside,  
7 and if there is no timely motion to set aside, recommending disbarment without further hearing  
8 or proceeding. As stated in the Order entering default, respondent was enrolled on inactive  
9 status and the facts in the NDC were deemed admitted in accordance with rule 5.82.

10 **C. Respondent's Default Has Not Been Set Aside Or Vacated.**

11 Rule 5.83 provides for stipulation by the parties to vacate default or a motion to vacate or  
12 set aside a default. A motion to vacate may be filed at any time that the Court has jurisdiction  
13 over the matter. A motion to set aside the default must be based on grounds of mistake,  
14 inadvertence, surprise or excusable neglect and filed within 90 days after service of the order  
15 entering default if default was ordered for failure to file an answer or 45 days if default was  
16 ordered for failure to appear at trial. Here, respondent had 90 days from August 6, 2021 to file a  
17 motion to set aside the default.

18 To date, respondent has not filed a motion to set aside or vacate the default. (See  
19 Morgenstern Declaration, ¶11.)

20 **II. THE REQUIREMENTS FOR A MANDATORY DISBARMENT**  
21 **RECOMMENDATION AFTER DEFAULT HAVE BEEN SATISFIED.**

22 **A. The State Bar Has Completed The Record Required For A Petition For**  
23 **Disbarment After Default.**

24 If the attorney fails to have the default set aside or vacated, under rule 5.85, the State Bar  
25 must file a petition requesting the Court to recommend disbarment, supported by one or more  
26 declarations addressing the factors set forth in subdivision (A) of the rule. Trial counsel's  
27 declaration addresses the required factors as follows:

1. Lack of contact by respondent. Respondent has failed to contact the State Bar since the default was entered on August 6, 2021. (Morgenstern Declaration, ¶12.)
2. Pending disciplinary matters. There are non-public disciplinary matters pending against him. The matters involve misappropriation of client funds, failure to perform and communicate adequately, and failure to return client files. (Morgenstern Declaration, ¶13.)
3. Prior disciplinary record. Respondent has a prior record of discipline. A certified copy of the private reprimand is attached to the Morgenstern Declaration, ¶14.
4. Payments by the Client Security Fund due to respondent's conduct. CSF has not paid out claims resulting from respondent's conduct. (Morgenstern Declaration, ¶15.)

**B. Having Satisfied The Requirements For A Mandatory Disbarment**

**Recommendation, The Court Must Recommend That Respondent Be Disbarred.**

If the member fails to file a response, as stated in rule 5.85, the Court must recommend the attorney's disbarment if the evidence shows the following:

- (a) The notice of disciplinary charges was served on the attorney properly;
- (b) The attorney had actual notice or reasonable diligence was used to notify the attorney of the proceedings prior to the entry of default;
- (c) The default was properly entered; and
- (d) The factual allegations deemed admitted in the notice of disciplinary charges support a finding that the attorney violated a statute, rule or court order that would warrant the imposition of discipline. (Rules Proc. of State Bar, rule 5.85(F)(1).)

**1. Proof Of Service And Receipt Of Notice By Respondent.**

Entry of default requires the State Bar to establish proper service of the notice of disciplinary charges and either respondent's receipt of the notice or exercise of reasonable diligence to notify the attorney. (Rules Proc. of State Bar, rule 5.80(B).) In this matter, the Court's order entered respondent's default based upon proof satisfactory to the Court that the

1 NDC was served properly on respondent and that the State Bar exercised reasonable diligence to  
2 notify respondent. The evidentiary support for the Court's findings is included in the record in  
3 this matter.

4 2. Respondent's Default Was Properly Entered.

5 The Court's order entering default was properly entered, included the required  
6 advisement of the effects of default, and served on respondent in compliance with rule 5.25. The  
7 default order has not been vacated or set aside. This petition has not been filed earlier than 91  
8 days of the date of service of the default order.

9 3. Culpability Warranting Discipline.

10 As reflected in the Court's order entering default, the factual allegations in the NDC were  
11 deemed admitted. (See Order Entering Default And Order Enrolling Inactive, filed on August 6,  
12 2021, in the court file for this matter; see also Rules Proc. of State Bar, rule 5.82(2).) The NDC  
13 alleged violations of the: (i) Rules of Professional Conduct, which is cause for the imposition of  
14 discipline (Bus. & Prof. Code §6077); (ii) Business and Professions Code section ("section")  
15 6068(i), which is cause for the imposition of discipline (Rules Proc. of State Bar, tit. IV, Stds. for  
16 Atty. Sanctions for Prof. Misconduct, std. 2.12(b)); (iii) section 6103, which is cause for the  
17 imposition of discipline (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof.  
18 Misconduct, std. 2.12(a)); and (iv) section 6106, which is cause for the imposition of discipline  
19 (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 2.11.)

20 When an attorney's default has been entered properly and not set aside or vacated within  
21 the time prescribed, the Rules of Procedure of the State Bar adopted January 1, 2011 dispense  
22 with the analysis traditionally undertaken to determine the appropriate level of discipline. The  
23 evidentiary requirements of rule 5.85, subdivision (F)(1)(a) through (d) compelling a disbarment  
24 recommendation after default have been satisfied.

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1     III.     CONCLUSION

2             Since the State Bar satisfied all the required elements for a disbarment recommendation  
3 after default required by rule 5.85, the Court must recommend respondent's disbarment.

4                             Respectfully submitted,

5                             THE STATE BAR OF CALIFORNIA  
6                             OFFICE OF CHIEF TRIAL COUNSEL

7                             

8     DATED: November 10, 2021

9             By: \_\_\_\_\_  
10                Eli D. Morgenstern  
11                Senior Trial Counsel



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1           7. On April 30, 2021, Mr. Van Brunt sent the Court, Senior Trial Counsel Kristina B.  
2 Ramos, and me a pdf copy of a letter via email. In the letter, Mr. Van Brunt wrote:

3                   I [Van Brunt] am counsel for Robert Girardi, temporary conservator  
4 of the person and estate of Thomas Girardi, in the pending  
5 conservatorship proceeding. I am in receipt of both the Notice of  
6 Assignment and Notice of Initial Status Conference dated April 12,  
7 2021, as well as the Notice of Motion and Motion for Entry of Default  
8 dated April 27, 2021. Please note that I am not counsel for Thomas  
9 Girardi. While I appreciate receiving these notices, as I have  
10 indicated in previous correspondence to Trial Counsel, my client  
11 understands that his brother will never practice law again and  
12 accordingly does not intend to participate in the State Bar proceeding.

13           8. On May 3, 2021, the State Bar received the return receipt that was attached to the  
14 envelope containing the motion for entry of default that was mailed to Mr. Van Brunt. The  
15 signature on the receipt was unintelligible. The motion for entry of default that was mailed to  
16 Mr. Van Brunt via first class mail was never returned to the State Bar as undeliverable or for any  
17 other reason.

18           9. On June 1, 2021, the State Bar received the return receipt that was attached to the  
19 envelope containing the motion for entry of default that was mailed to respondent. The signature  
20 on the receipt was unintelligible. (Morgenstern Declaration, ¶23.) The motion for entry of  
21 default that was mailed to respondent via first class mail was never returned to the State Bar as  
22 undeliverable or for any other reason.

23           10. Respondent did not file a written response to the motion for entry of default.

24           11. To date, respondent has not filed a motion to set aside or vacate the default.

25           12. Respondent has failed to contact the State Bar since the default was entered on  
26 August 6, 2021.

27           13. There are non-public disciplinary matters pending against respondent. The matters  
28 involve misappropriation of client funds, failure to perform and communicate adequately, and  
failure to return client files. Respondent has prior record of discipline.

          14. Respondent has a prior record of discipline. On October 18, 1999, respondent was  
privately reprimanded in Case Nos. 93-O-14209, 95-O-11864, and 96-O-01837 for misconduct that

1 he committed in three client matters. A certified copy of respondent's private reproof is  
2 attached to this Declaration as Exhibit 1.

3 15. On November 10, 2021, I checked on the AS/400 computer records maintained by the  
4 Client Security Fund ("CSF") to determine whether CSF has made payments resulting from  
5 respondent's conduct. AS/400 records are used in the ordinary course of business by the Office  
6 of the Chief Trial Counsel and CSF and the CSF information contained therein is relied on and  
7 believed to be accurate. According to the AS/400 computer records, CSF has not made  
8 payments resulting from respondent's conduct.

9 I declare under penalty of perjury under the laws of the State of California that the  
10 foregoing is true and correct.

11 Executed on this 10th day of November, 2021 at Los Angeles, California.

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15 Eli D. Morgenstern  
16 Declarant  
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**EXHIBIT 1**

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**State Bar Court of the State Bar of California**  
**Hearing Department**   ☒ **Los Angeles**   ☐ **San Francisco**

**ORIGINAL**

<b>Counsel for the State Bar</b> THE STATE BAR OF CALIFORNIA OFFICE OF THE CHIEF TRIAL COUNSEL ENFORCEMENT VICTORIA MOLLOY, NO. 97747 RUSSELL G. WEINER, NO. 94504 TERRY ST. BERNARD, NO. 148068 1149 South Hill Street Los Angeles, California 90015-2299 Telephone: (213) 765-1000	<b>Case number(s)</b> 93-0-14209 95-0-11864 96-0-01837	(for Court's use)  <div style="text-align: center; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; font-size: 1.2em; font-weight: bold;">OCT 18 1999</div> <div style="text-align: center; font-size: 0.8em; font-weight: bold;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
<b>Counsel for Respondent</b> Michael Howard Walizer, No. 133331 Arnold & Porter 777 S. Figueroa St., 44th Fl. Los Angeles, CA 90017-2513 Telephone: (213) 243-4000 JoAnne Earls Robbins, NO. 82352 KARPMAN & ASSOCIATES 9200 Sunset Blvd., PH #7 Los Angeles, CA 90069 Telephone: (310) 887-3900	<div style="text-align: center; font-size: 1.5em; font-weight: bold; transform: rotate(-15deg); opacity: 0.5;">NOT FOR PUBLICATION</div> <p>Submitted to   <input type="checkbox"/> assigned judge   <input type="checkbox"/> settlement judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p><b>REPROVAL</b>   <input checked="" type="checkbox"/> <b>PRIVATE</b>   <input type="checkbox"/> <b>PUBLIC</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
In the Matter of  <div style="text-align: center;">THOMAS VINCENT GIRARDI</div> <p>Bar # #36603</p> <p>A Member of the State Bar of California (Respondent)</p>		

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted January 13, 1965  
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation, and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 12 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 

☐ costs added to membership fee for calendar year following effective date of discipline (public reproof)  
☒ case ineligible for costs (private reproof)  
☐ costs to be paid in equal amounts prior to February 1 for the following membership years:  

(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)

☐ costs waived in part as set forth under "Partial Waiver of Costs"  
☐ costs entirely waived

**Note:** All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

**2. Aggravating Circumstances (for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)). Facts supporting aggravating circumstances are required.**

(1) ☐ **Prior record of discipline** (see standard 1.2(f))

(a) ☐ State Bar Court case # of prior case \_\_\_\_\_

(b) ☐ date prior discipline effective \_\_\_\_\_

(c) ☐ Rules of Professional Conduct/ State Bar Act violations: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) ☐ degree of prior discipline \_\_\_\_\_

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

(2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☒ **Trust Violation:** Trust funds or property were involved and Respondent ~~refused or was unable to~~ *accountings to his client* ~~account to the client or person who was the object of the misconduct for improper conduct~~ *7/15 were sometimes* ~~toward said funds or property.~~ *confusing and inadequate.*

(4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☐ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct.

(8) ☐ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances (see standard 1.2(e)). Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☒ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation to the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☒ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☒ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

See page 10.

**D. Discipline:**

- (1) ☒ private reproof (check applicable conditions, **if any**, below)
- (a) ☒ no public disclosure (stipulation prior to filing of charges only)
- (b) ☐ public disclosure (Notice of Disciplinary Charges filed)

or

- (2) ☐ public reproof (check applicable conditions, **if any**, below)

**E. Conditions Attached to Reproof:**

- (1) ☒ Respondent shall comply with the conditions attached to the reproof for a period of one (1) year.
- (2) ☒ During the condition period attached to the reproof, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Respondent shall promptly report, and in no event in more than 10 days, to the Membership Records Office of the State Bar and to the Probation Unit, Office of the Chief Trial Counsel, Los Angeles, all changes of information including current office or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Respondent shall submit written quarterly reports to the Probation Unit of the Office of the Chief Trial Counsel on each January 10, April 10, July 10, and October 10 of the period of probation, except as set forth in the second paragraph of this condition. Under penalty of perjury each report shall state that Respondent has complied with all provisions of the State Bar Act and the Rules of Professional Conduct during the preceding calendar quarter or period described in the second paragraph of this condition.
- If the first report would cover less than 30 days, then the first report shall be submitted on the next quarter date and cover the extended period. The final report is due no earlier than 20 days before the last day of the period of probation and no later than the last day of probation.
- (5) ☒ Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the conditions attached to the reproof.
- (6) ☐ Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of his/her probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent shall furnish such reports as may be requested by the probation monitor to the probation monitor in addition to quarterly reports required to be submitted to the Probation Unit of the Office of the Chief Trial Counsel. Respondent shall cooperate fully with the probation monitor to enable him/her to discharge his/her duties.
- (7) ☐ Within one year of the effective date of the reproof herein, Respondent shall attend the State Bar Ethics School, and shall pass the test given at the end of such session.
- ☒ No Ethics School ordered.
- (8) ☐ Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel within one year of the effective date of the reproof.
- ☒ No MPRE ordered.



(9) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions

☐ Law Office Management Conditions

☐ Medical Conditions

☐ Financial Conditions

(10) ☒ Other conditions negotiated by the parties:

See page 11.

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:     Thomas Vincent Girardi

CASE NUMBER(S):        93-O-14209, ET SEQ.

**FACTS AND CONCLUSIONS OF LAW.**

Count One

Case No. 93-O-14209

Rules of Professional Conduct, Former Rule 4-210(A)(2)  
[Improper Advance of Monies to Client]

1.     Respondent wilfully violated Rules of Professional Conduct, former rule 4-210(A)(2), by failing to obtain his client's written promise to repay a loan, as follows:

2.     Respondent represented James Williamson in a multiple plaintiff personal injury matter.

3.     In May 1992, Respondent's firm advanced to Williamson \$650.00 without obtaining Williamson's written promise to repay the loan.

4.     By not obtaining his client's written promise to repay the loan, Respondent wilfully violated former rule 4-210(A)(2).

Count Two

Case No. 95-O-11864

Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Monies in Trust]

5.     Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A) by failing to maintain client monies in a bank account labelled as a "Trust Account," "Client's Funds Account" or with words of similar import, as follows:

6.     In April 1985, at the request of Sharon and Leonard Keith, Respondent filed a personal injury action on behalf of their son, Christian, who was left brain damaged and hemiplegic as a result of an auto accident.

7.     The case settled on October 9, 1987 for \$2,015,000.00, in payments to be made over several months.

8. In December 1987, Respondent informed the Keiths that after payment of attorney's fees and costs, \$1,500,000.00 of the settlement monies would remain for Christian's benefit. Respondent stated that the settlement funds should be received from the defendants by June 1988, and that upon receipt of the settlement monies, he would disburse \$200,000.00 to the Keiths, would set aside \$300,000.00 for medical liens and ongoing medical care. The remaining \$1,000,000.00, Respondent explained, would be placed in an interest bearing account and, once all medical bills were resolved, would be used to purchase an annuity.

9. By September 1988, Respondent received the \$2,015,000.00 settlement monies and deposited them into his client trust account. Of this sum, Respondent transferred \$1,000,000.00 into two interest bearing Certificates of Deposit ("CDs"). Respondent purchased the CDs in his own name and did not label them as trust funds belonging to Christian Keith because Respondent believed that if he put the monies in Keith's name, it would destroy the tax-exempt status of the settlement funds. The remainder of the settlement monies were retained by Respondent in his client trust account until such time as they were disbursed to the client and medical providers. All monies were properly paid.

10. In placing one million dollars of Keith's settlement monies into CDs not identified as "Trust Account," "Client's Funds Account" or with words of similar import, Respondent failed to maintain his client's monies in trust, in violation of Rules of Professional Conduct, rule 4-100(A).

Count Three

Case No. 96-O-01837

Business and Professions Code section 6068(m)  
[Failure to Communicate]

11. Respondent wilfully violated Business and Professions Code section 6068(m) by failing to communicate significant developments to his clients, as follows:

12. In 1993, Respondent substituted in as plaintiffs' counsel in a multiple plaintiff civil action stemming from a multi-million dollar real estate investment scam.

13. Between August 1994 and May 1995, the defendants filed numerous motions for partial or complete summary judgment. During this period, many of the plaintiffs' claims were dismissed. Finally, in May 1995, the court dismissed with prejudice the plaintiffs' complaint in its entirety.

14. Several of the plaintiffs complained that Respondent failed to promptly inform them that their lawsuit was dismissed in May 1995.

7

15. In failing to promptly notify his clients that their lawsuit was dismissed, Respondent failed to keep his clients reasonably informed of significant developments in their matter, in violation of Business and Professions Code section 6068(m).

#### **PENDING PROCEEDINGS.**

The disclosure date referred to, on page one, paragraph A.(6), was October 13, 1999.

#### **AUTHORITIES SUPPORTING DISCIPLINE.**

In In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 732, Respondent negligently failed to place approximately \$2,000.00 in trust while arbitrating his entitlement to fees and costs. As is true in Respondent Girardi's case, Respondent E voluntarily paid all monies owed to the client prior to the commencement of the State Bar's investigation.

Because Respondent E had a 40-year discipline-free record and a wide range of character witnesses (like Respondent Girardi), the Review Department determined that Respondent E should be privately reprovved for his violation of former rule 8-101(A).

In In the Matter of Respondent F (1992) 2 Cal. State Bar Ct. Rptr. 17, Respondent inadvertently deposited a check into the general account instead of into the trust account. The mistake was not detected, because she did not reconcile her trust account regularly, and later resulted in insufficient funds. As in Mr. Girardi's case, no client was ever harmed and all client funds were always secure in an account. The Court found that while there was a technical violation, it did not amount to gross negligence.

Because Respondent F had established significant mitigation, including good character, the Court found that the rule violation was inadvertent and unlikely to ever be repeated, Respondent F was privately reprovved.

Respondent Girardi's investment of Keith's monies in CDs which he failed to label as trust monies constitutes a negligent violation of the trust accounting rules. Under Respondent E and Respondent F, such conduct warrants only a reprovval.

#### **AGGRAVATING CIRCUMSTANCES.**

##### **FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.**

1. Trust Violation: On several occasions, Sharon Keith requested an accounting of all settlement monies received and disbursed on behalf of her son. Although Respondent responded to these requests, the accountings he provided were sometimes

confusing and inadequate. Nevertheless, Respondent did ultimately account for and disburse all funds held on behalf of Christian Keith.

#### **MITIGATING CIRCUMSTANCES.**

##### **FACTS SUPPORTING MITIGATING CIRCUMSTANCES.**

1. No Harm: Respondent's conduct did not harm any of his clients. Specifically, the failure to maintain Keith's funds in trust did not harm the client since all monies held by Respondent on Keith's behalf, plus substantial interest, was timely paid to Keith.

2. Candor and Cooperation: Respondent promptly responded to all requests for information from the State Bar.

3. Good Faith: In placing one million dollars of Keith's settlement monies into CDs, Respondent had a good faith belief that this was in the best interest of his client, since he believed it would preserve the tax-exempt status of the settlement funds and, at the same time, allow the monies to accrue interest at a higher rate than the monies would if maintained in Respondent's client trust account.

4. Good Character: Mr. Girardi has been a preeminent trial attorney in Southern California for the last two decades. He was elected a fellow of the International Academy of Trial Lawyers in 1978. He was also on the Board of Directors for six years and was admitted to the Inner Circle of Advocates.

Mr. Girardi has been a member of the Los Angeles Trial Lawyers Association (now the Consumer Attorneys Association of Los Angeles) for many years. He was chosen as CAALA's "Trial Lawyer of the Year" for 1995-1996.

He is a longtime member of the American Board of Trial Advocates, and was President of the Los Angeles Chapter in 1997-1998. He was chosen as the Cal-ABOTA "Trial Lawyer of the Year" for 1996. Mr. Girardi is currently National President of ABOTA (1999).

Mr. Girardi is an Adjunct Professor of Law at Loyola Law School, from which he graduated in 1964. He was honored with the "Distinguished Alumnus Award" for 1997. He has made generous donations to Loyola Law School in excess of \$2,000,000.

Mr. Girardi is also a member of the American Board of Professional Liability Lawyers and the International Society of Barristers.

Mr. Girardi regularly appears as a speaker/presenter in professional programs sponsored by the Los Angeles Superior Court Judges Association, the Los Angeles County Bar Association, the Orange County Bar Association, the Consumer Attorneys Association of Los Angeles, the Consumer Attorneys of California, the American Bar Association, the American Judicature Society, the American Conference Institute, the American Board of Trial Advocates, the Western Trial Lawyers Association, the Association of Southern California Defense Counsel, and many others. He has also spoken frequently at law schools from University of Southern California Law Center and Pepperdine University, to the University of Tennessee Law School. He has also spoken to diverse groups such as the Lawyers' Mutual Insurance Company and the Rutter Group.

Mr. Girardi has always supported the California and Federal Judiciary in all respects. He was selected by the Federal Judges in the Central District of California to be a lawyer representative to the Ninth Circuit Conference in 1997. He spearheaded efforts to build a new and much-needed Juror Assembly Room for the downtown Los Angeles Superior Court, offering to contribute \$1,000,000. He has also spent many hours as an unpaid mediator/arbitrator for the Los Angeles Superior Court.

Mr. Girardi is coauthor of the American Board of Trial Advocates "Code of Professionalism" and speaks in many different forums on the issue of civility among lawyers.

#### **ADDITIONAL MITIGATING CIRCUMSTANCES.**

Respondent has practiced law since 1965 with no prior record of discipline.

#### **MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION EXCLUSION.**

It is recommended that Respondent not be required to take the Multistate Professional Responsibility Examination. Instead, Respondent will be required to complete six hours of California Minimum Continuing Legal Education-approved courses on law office management and/or legal ethics, as described below.

#### **ETHICS SCHOOL EXCLUSION.**

It is recommended that Respondent not be required to attend State Bar Ethics School. Instead, Respondent will be required to complete six hours of California Minimum Continuing Legal Education-approved courses on law office management and/or legal ethics, as described below.

#### **CONTINUING LEGAL EDUCATION COURSES.**

Respondent shall complete twelve hours of California Minimum Continuing Legal Education-approved course(s) on law office management and/or legal ethics, approved for participatory credit, within one year following the effective date of discipline. Completion of State Bar Ethics School or self-study courses will not satisfy this requirement. Respondent shall furnish satisfactory evidence of completion of the course(s) to the Probation Unit in the next quarterly report that is due following completion of each course or prior to expiration of the probation/reproval condition period if no such report will become due prior to the expiration of the probation/reproval condition period.

Date 10/14/99

  
Respondent's signature

THOMAS VINCENT GIRARDI  
print name

Date 10/14/99

  
Respondent's Counsel's signature

MICHAEL WALIZER/JOANNE ROBBINS  
print name

Date 10/18/99

  
Deputy Trial Counsel's signature

TERRY ST. BERNARD  
print name

### ORDER

Finding that the stipulation protects the public and that the interests of Respondent will be served by any conditions attached to the reproof, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☐ The stipulated facts and disposition are APPROVED AND THE REPROVAL IMPOSED.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the REPROVAL IMPOSED.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **Otherwise the stipulation shall be effective 15 days after service of this order.**

**Failure to comply with any conditions attached to this reproof may constitute cause for a separate proceeding for willful breach of rule 1-110, Rules of Professional Conduct.**

Date 11/2/99

  
Judge of the State Bar Court



## CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on **November 12, 1999**, I deposited a true copy of the following document(s)

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND  
DISPOSITION AND ORDER APPROVING, FILED OCTOBER 18, 1999  
SERVED NOVEMBER 12, 1999**

in a sealed envelope for collection and mailing on that date as follows:

[ X ]      by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**MICHAEL H WALIZER ESQ  
ARNOLD & PORTER  
777 S FIGUEROA ST 44TH FL  
LOS ANGELES CA 90017 2513**

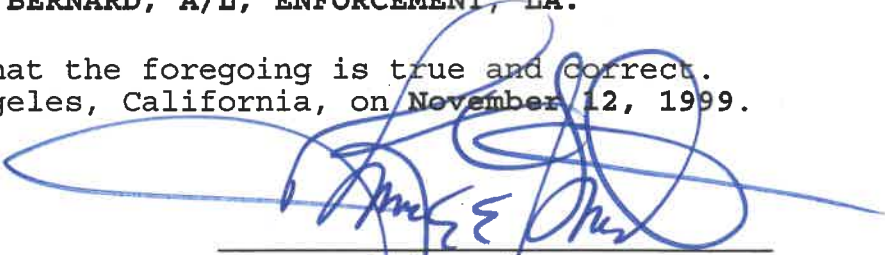
**JOANNE EARLS ROBBINS A/L  
KARPMAN & ASSOCIATES  
9200 SUNSET BLVD PH #7  
LOS ANGELES CA 90069**

[ ] by certified mail, , with a return receipt requested, through the United States Postal Service at Los Angeles, California, addressed as follows:

[ X ]      by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

**TERRY ST BERNARD, A/L, ENFORCEMENT, LA.**

I hereby certify that the foregoing is true and correct.  
Executed in Los Angeles, California, on **November 12, 1999**.



**JOHNNIE LEE SMITH**  
Case Administrator  
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST **March 24, 2021**

State Bar Court, State Bar of California,  
Los Angeles

By   
Clerk

# DECLARATION OF SERVICE

CASE NUMBER(s): **SBC-21-O-30192-YDR**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

## PETITION FOR DISBARMENT AFTER DEFAULT FOR FAILURE TO FILE TIMELY RESPONSE; SUPPORTING DECLARATION OF ELI D. MORGENSTERN



**By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))**

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.



**By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**



**By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").



**By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



**By Electronic Service: (CCP § 1010.6 and Rules of Proc. of State Bar, rule 5.26.2)**

Based on rule 5.26.2, a court order, or an agreement of the parties to accept service by electronic transmission, I caused the above-named document(s) to be transmitted by electronic means to the person(s) at the electronic address(es) listed below. If there is a signature on the document(s), I am the signer of the document(s), I am the agent of, or I am serving the document(s) at the direction of, the signer of the document(s). I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



*(for U.S. First-Class Mail)* in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*



*(for Certified Mail)* in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.: **1) 9414 7266 9904 2171 3841 44**

at Los Angeles, addressed to: *(see below)*

**2) 9414 7266 9904 2171 3841 37**



*(for Overnight Delivery)* together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: \_\_\_\_\_ addressed to: *(see below)*

Person Served	Business Address	Fax Number	Courtesy Copy to:
1) Thomas Vincent Girardi <i>(Respondent)</i>	Girardi & Keese 1126 Wilshire Boulevard Los Angeles, CA 90017-1904 <i>(via U.S. Certified Mail-Return Receipt Requested and via U.S. First-Class Mail)</i>		2) Nicholas Van Brunt Sheppard Mullin Richter & Hampton LLP 333 S. Hope Street, Suite 4300 Los Angeles, CA 90071-1422 <i>(Attorney for Robert Girardi, Temporary Conservator of Thomas Vincent Girardi)</i> <i>(via U.S. Certified Mail-Return Receipt Requested and via U.S. First-Class Mail)</i>
		Electronic Address	



**via inter-office mail regularly processed and maintained by the State Bar of California addressed to:**

N/A


I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

DATED: November 10, 2021

SIGNED: \_\_\_\_\_

  
Max Carranza  
Declarant